

AMENDED IN ASSEMBLY APRIL 23, 2009

AMENDED IN ASSEMBLY MARCH 24, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 654**

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**Introduced by Assembly Member Mendoza**

February 25, 2009

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An act to amend Sections 22714, 22715, 22954, 22955, 22955.5, 23003, 23006, 23008, 26301, and 26303 of, to amend, repeal, and add Section 22162 of, and to add ~~Section 23006.5~~ *Sections 23006.5, 23010, and 26303.5* to, the Education Code, relating to state teachers' retirement.

### LEGISLATIVE COUNSEL'S DIGEST

AB 654, as amended, Mendoza. State teachers' retirement.

(1) ~~Under existing law, the~~ *The State Teachers' Retirement Law; prescribes the rights and benefits of members of the State Teachers' Retirement System. The law provides that* retirement benefits under the Defined Benefit Program of the State Teachers' Retirement Plan are based on the member's final compensation and years of credited service. Generally, final compensation is the highest average annual compensation earnable by the member during a 3-year period. However, for a member with 25 or more years of credited service, final compensation is the highest average annual compensation earnable by the member during a one-year period. That law authorizes the Governor, a school district, community college district, or county office of education to grant members of the Defined Benefit Program of the State Teachers' Retirement Plan 2 additional years of service credit, if the member retires for service within a designated period and certain

conditions are satisfied, including the transfer of a specified amount to the Teachers' Retirement Fund.

This bill would require regular interest to be charged on the unpaid balance if the transfer to the retirement fund is made in installments. The bill would modify the definition of "regular interest" for purposes of the State Teachers' Retirement Law.

*(2) Under the law, a continuous appropriation is made annually from the General Fund for transfer to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund to fund supplemental purchase power protection payments to retired members, disabled members, and beneficiaries of the Defined Benefit Program of the State Teachers' Retirement System. The law provides that the total amount of the appropriation for each year shall be equal to 2.5% of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based for purposes of funding the supplemental payments, as specified. The law also provides for annual continuous appropriations from the General Fund for transfer to the Teachers' Retirement Fund to fund the benefits of the Defined Benefit Program. Those appropriations for each year are equal to 2.017% and 0.524% of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based, as specified.*

*This bill would clarify, for purposes of calculating those appropriations, that the total of the creditable compensation reported to the system during the fiscal year ending in the immediately preceding calendar year, includes creditable compensation that was earned either during that fiscal year or the immediately preceding fiscal year.*

~~(2)~~

(3) The law specifies the date by which member and employer contributions are due in the office of the State Teachers' Retirement System, and provides that payments thereafter shall be delinquent and subject to interest, as specified. If a county superintendent of schools, employing agency, school district, or community college district that reports directly to the system fails to pay the contributions, the Teachers' Retirement Board may assess penalties and charge regular interest on the delinquent contributions.

This bill, instead, would require the board, in accordance with regulations, to assess penalties and charge regular interest for any

delinquent contributions, as specified. *The bill would provide that any penalties or interest may be appealed, as specified.*

(3)

(4) The law requires the county superintendent of schools or employing agency, and authorizes a school district or community college district, with approval of the Teachers' Retirement Board, to submit a report monthly to the State Teachers' Retirement System containing information as the board may require in the administration of the State Teachers' Retirement Plan. If those monthly reports are submitted late or in an unacceptable form, or include late or improper adjustments, the board is authorized to assess penalties pursuant to a specified formula, or a fee of \$500, whichever is greater.

This bill, instead, would require the board, in accordance with regulations, to assess those penalties, pursuant to a specified formula, or a fee of \$500, whichever is greater. The bill would additionally require the board to assess penalties, pursuant to a specified formula, if a county superintendent of schools, or an employing agency, school district, or community college district that reports directly to the system, includes in those monthly reports creditable compensation earned during *any prior fiscal year, except for the immediately preceding fiscal year. If creditable compensation earned during the immediately preceding fiscal year is included in other specified monthly reports to the system, that creditable compensation would be required to be included for purposes of calculating the appropriations described in paragraph (2) above. The bill would provide that any penalties or interest may be appealed, as specified.*

(4)

(5) The law permits an employer to offer benefits under the Cash Balance Benefit Program to certain employees who are employed less than 50% of full time, and requires employers to transmit and report contributions paid on behalf of each participant in each pay period, along with all other information required by the system by specified due dates. The board is authorized to collect interest for delinquent contributions and to assess a penalty for a report submitted late or in an unacceptable form pursuant to a specified formula, or a fee of \$500, whichever is greater.

This bill, instead, would require the board to collect interest on delinquent contributions, as specified, and to assess penalties, in accordance with regulations, against the employer for a report submitted late or in an unacceptable form pursuant to a specified formula, or a fee

of \$500, whichever is greater. *The bill would provide that any penalties or interest may be appealed, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 22162 of the Education Code is amended  
2 to read:

3 22162. "Regular interest" means interest that is compounded  
4 annually based on the annual equivalent of the prior year's average  
5 yield to maturity on the investment-grade fixed income securities  
6 attributable to the Defined Benefit Program, but not on assets  
7 attributable to the Defined Benefit Supplement Program. The  
8 regular interest rate shall be adopted annually by the board as a  
9 plan amendment with respect to the Defined Benefit Program.

10 This section shall become inoperative on June 30, 2010, and, as  
11 of January 1, 2011, is repealed, unless a later enacted statute, that  
12 becomes operative on or before January 1, 2011, deletes or extends  
13 the dates on which it becomes inoperative and is repealed.

14 SEC. 2. Section 22162 is added to the Education Code, to read:

15 22162. "Regular interest" means interest that is equal to the  
16 actuarially assumed rate of return on investments on assets of the  
17 Defined Benefit Program. The regular interest rate shall be adopted  
18 annually by the board as a plan amendment with respect to the  
19 Defined Benefit Program.

20 This section shall become operative on July 1, 2010.

21 SEC. 3. Section 22714 of the Education Code is amended to  
22 read:

23 22714. (a) Whenever the governing board of a school district  
24 or a community college district or a county office of education,  
25 by formal action, determines pursuant to Section 44929 or 87488  
26 that, because of impending curtailment of, or changes in, the  
27 manner of performing services, the best interests of the district or  
28 county office of education would be served by encouraging  
29 certificated employees or academic employees to retire for service  
30 and that the retirement will result in a net savings to the district or  
31 county office of education, an additional two years of service credit  
32 shall be granted under this part to a member of the Defined Benefit  
33 Program if all of the following conditions exist:

1 (1) The member is credited with five or more years of service  
2 credit and retires for service under Chapter 27 (commencing with  
3 Section 24201) during a period of not more than 120 days or less  
4 than 60 days, commencing no sooner than the effective date of the  
5 formal action of the employer that shall specify the period.

6 (2) (A) The employer transfers to the retirement fund an amount  
7 determined by the Teachers' Retirement Board to equal the  
8 actuarial equivalent of the difference between the allowance the  
9 member receives after receipt of service credit pursuant to this  
10 section and the amount the member would have received without  
11 the service credit and an amount determined by the Teachers'  
12 Retirement Board to equal the actuarial equivalent of the difference  
13 between the purchasing power protection supplemental payment  
14 the member receives after receipt of service credit pursuant to this  
15 section and the amount the member would have received without  
16 the service credit. The payment for purchasing power shall be  
17 deposited in the Supplemental Benefit Maintenance Account  
18 established by Section 22400 and shall be subject to Section 24415.  
19 The transfer to the retirement fund shall be made in a manner and  
20 a time period, not to exceed eight years, that is acceptable to the  
21 Teachers' Retirement Board. The employer shall transfer the  
22 required amount for all eligible employees who retire pursuant to  
23 this section.

24 (B) Regular interest shall be charged on the unpaid balance if  
25 the employer makes the transfer to the retirement fund in  
26 installments.

27 (3) The employer transmits to the retirement fund the  
28 administrative costs incurred by the system in implementing this  
29 section, as determined by the Teachers' Retirement Board.

30 (4) The employer has considered the availability of teachers or  
31 academic employees to fill the positions that would be vacated  
32 pursuant to this section.

33 (b) (1) The school district shall demonstrate and certify to the  
34 county superintendent that the formal action taken would result in  
35 a net savings to the district.

36 (2) The county superintendent shall certify to the Teachers'  
37 Retirement Board that the result specified in paragraph (1) can be  
38 demonstrated. The certification shall include, but not be limited  
39 to, the information specified in subdivision (c) of Section 14502.1.

1 (3) The school district shall reimburse the county superintendent  
2 for all costs to the county superintendent that result from the  
3 certification.

4 (c) (1) The county office of education shall demonstrate and  
5 certify to the Superintendent of Public Instruction that the formal  
6 action taken would result in a net savings to the county office of  
7 education.

8 (2) The Superintendent of Public Instruction shall certify to the  
9 Teachers' Retirement Board that the result specified in paragraph  
10 (1) can be demonstrated. The certification shall include, but not  
11 be limited to, the information specified in subdivision (c) of Section  
12 14502.1.

13 (3) The Superintendent of Public Instruction may request  
14 reimbursement from the county office of education for all  
15 administrative costs that result from the certification.

16 (d) (1) The community college district shall demonstrate and  
17 certify to the chancellor's office that the formal action taken would  
18 result in a net savings to the district.

19 (2) The chancellor shall certify to the Teachers' Retirement  
20 Board that the result specified in paragraph (1) can be  
21 demonstrated. The certification shall include, but not be limited  
22 to, the information specified in subdivision (c) of Section 84040.5.

23 (3) The chancellor may request reimbursement from the  
24 community college district for all administrative costs that result  
25 from the certification.

26 (e) The opportunity to be granted service credit pursuant to this  
27 section shall be available to all members employed by the school  
28 district, community college district, or county office of education  
29 who meet the conditions set forth in this section.

30 (f) The amount of service credit shall be two years.

31 (g) Any member of the Defined Benefit Program who retires  
32 under this part for service under Chapter 27 (commencing with  
33 Section 24201) with service credit granted under this section and  
34 who subsequently reinstates shall forfeit the service credit granted  
35 under this section.

36 (h) Any member of the Defined Benefit Program who retires  
37 under this part for service under Chapter 27 (commencing with  
38 Section 24201) with service credit granted under this section and  
39 who takes any job with the school district, community college  
40 district, or county office of education that granted the member the

1 service credit less than five years after receiving the credit shall  
2 forfeit the ongoing benefit he or she receives from the additional  
3 service credit granted under this section.

4 (i) This section does not apply to any member otherwise eligible  
5 if the member receives any unemployment insurance payments  
6 arising out of employment with an employer subject to this part  
7 within one year following the effective date of the formal action  
8 under subdivision (a), or if the member is not otherwise eligible  
9 to retire for service.

10 SEC. 4. Section 22715 of the Education Code is amended to  
11 read:

12 22715. (a) Notwithstanding any other provisions of this part,  
13 whenever the Governor, by executive order, determines that  
14 because of an impending curtailment of, or change in the manner  
15 of performing service, the best interest of the state would be served  
16 by encouraging the retirement of state employees, and that  
17 sufficient economies could be realized to offset any cost to state  
18 agencies resulting from this section, an additional two years of  
19 service shall be credited under this part to members of the Defined  
20 Benefit Program, who are state employees, if the following  
21 conditions exist:

22 (1) The member is credited with five or more years of service  
23 and retires during a period not to exceed 120 days or less than 60  
24 days commencing no sooner than the date of issuance of the  
25 Governor's executive order specifying that period.

26 (2) (A) The appointing power, as defined in Section 18524 of  
27 the Government Code, transfers to the retirement fund an amount  
28 determined by the board to equal the actuarial equivalent of the  
29 difference between the allowance the member receives after the  
30 receipt of service credit under this section and the amount the  
31 member would have received without the service credit. The  
32 transfer to the retirement fund shall be made in a manner and time  
33 period acceptable to the employer and the board.

34 (B) Regular interest shall be charged on the unpaid balance if  
35 the employer makes the transfer to the retirement fund in  
36 installments.

37 (3) The appointing power determines that it is electing to  
38 exercise the provisions of this section, pursuant to the Governor's  
39 order, and certifies to the Department of Finance and to the  
40 Legislative Analyst, as to the specific economies that would be

1 realized if the additional service credit toward retirement were  
2 granted.

3 (b) As used in this section, “member” means a state employee  
4 who is employed in a job classification, department, or other  
5 organizational unit designated by the appointing power, as defined  
6 in Section 18524 of the Government Code.

7 (c) The amount of service credit shall be two years regardless  
8 of credited service, but shall not exceed the number of years  
9 intervening between the date of the member’s retirement under  
10 this part and the date the member would be required to be retired  
11 because of age. The appointing power shall make the payment  
12 with respect to all eligible employees who retire pursuant to this  
13 section.

14 (d) Any member who qualifies under this section, upon  
15 subsequent reinstatement under this part, shall forfeit the service  
16 credit granted under this section.

17 (e) This section shall not be applicable to any member otherwise  
18 eligible if that member receives any unemployment insurance  
19 payments arising out of employment with an employer subject to  
20 this part during a period extending one year beyond the date of  
21 issuance of the executive order or if the member is not eligible to  
22 retire without the additional credit available under this section.

23 (f) The benefit provided by this section shall not be applicable  
24 to the employees of any appointing power until the Director of  
25 Finance approves the transmittal of funds by that appointing power  
26 or the Board of Regents or the Board of Trustees to the retirement  
27 fund pursuant to paragraph (2) of subdivision (a).

28 (g) The Director of Finance shall approve the transmittal of  
29 funds by the appointing power not sooner than 30 days after  
30 notification in writing of the necessity therefor to the chairperson  
31 of the committee in each house *of the Legislature* that considers  
32 appropriations and the ~~chairperson~~ Chairperson of the Joint  
33 Legislative Budget Committee, or not sooner than any lesser time  
34 that the chairperson of the committee, or his or her designee, may  
35 in each instance determine. If there is any written communication  
36 between the Director of Finance and the Legislative Analyst, a  
37 copy of the communication shall be transmitted to the chairperson  
38 of each appropriate policy committee.

39 *SEC. 5. Section 22954 of the Education Code is amended to*  
40 *read:*



22954. (a) Notwithstanding Section 13340 of the Government Code, a continuous appropriation is hereby annually made from the General Fund to the Controller, pursuant to this section, for transfer to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund.

(b) Except as reduced pursuant to subdivision (c), the total amount of the appropriation for each year shall be equal to 2.5 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year, *which was earned either during that fiscal year or the immediately preceding fiscal year*, upon which members' contributions are based for purposes of funding the supplemental payments authorized by Section 24415, as reported annually to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst pursuant to Section 22955.5.

(c) Beginning with the 2008–09 fiscal year, the appropriation in subdivision (b) shall be reduced in accordance with the following schedule:

2008–09.....	\$66,386,000
2009–10.....	\$70,000,000
2010–11.....	\$71,000,000
2011–12 and each fiscal year thereafter.....	\$72,000,000

(d) Transfers made to the Supplemental Benefit Maintenance Account, pursuant to subdivision (a) shall be made on November 1 and April 1 of each fiscal year.

(e) The board may deduct from the annual appropriation made pursuant to this section an amount necessary for the administrative expenses of Section 24415.

(f) It is the intent of the Legislature in enacting this section to establish the supplemental payments pursuant to Section 24415 as vested benefits pursuant to a contractually enforceable promise to make annual contributions from the General Fund to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund in order to provide a continuous annual source of revenue for the purposes of making the supplemental payments under Section 24415.

1     SEC. 6. *Section 22955 of the Education Code is amended to*  
2     *read:*

3     22955. (a) Notwithstanding Section 13340 of the Government  
4     Code, commencing July 1, 2003, a continuous appropriation is  
5     hereby annually made from the General Fund to the Controller,  
6     pursuant to this section, for transfer to the Teachers' Retirement  
7     Fund. The total amount of the appropriation for each year shall be  
8     equal to 2.017 percent of the total of the creditable compensation  
9     of the fiscal year ending in the immediately preceding calendar  
10    year, *which was earned either during that fiscal year or the*  
11    *immediately preceding fiscal year*, upon which members'  
12    contributions are based, as reported annually to the Director of  
13    Finance, the Chairperson of the Joint Legislative Budget  
14    Committee, and the Legislative Analyst pursuant to Section  
15    22955.5, and shall be divided into four equal quarterly payments.

16    (b) Notwithstanding Section 13340 of the Government Code,  
17    commencing October 1, 2003, a continuous appropriation, in  
18    addition to the appropriation made by subdivision (a), is hereby  
19    annually made from the General Fund to the Controller for transfer  
20    to the Teachers' Retirement Fund. The total amount of the  
21    appropriation for each year shall be equal to 0.524 percent of the  
22    total of the creditable compensation of the fiscal year ending in  
23    the immediately preceding calendar year, *which was earned either*  
24    *during that fiscal year or the immediately preceding fiscal year*,  
25    upon which members' contributions are based, as reported annually  
26    to the Director of Finance, the Chairperson of the Joint Legislative  
27    Budget Committee, and the Legislative Analyst pursuant to Section  
28    22955.5, and shall be divided into four equal quarterly payments.  
29    The percentage shall be adjusted to reflect the contribution required  
30    to fund the normal cost deficit or the unfunded obligation as  
31    determined by the board based upon a recommendation from its  
32    actuary. If a rate increase is required, the adjustment may be for  
33    no more than 0.25 percent per year and in no case may the transfer  
34    made pursuant to this subdivision exceed 1.505 percent of the total  
35    of the creditable compensation of the fiscal year ending in the  
36    immediately preceding calendar year upon which members'  
37    contributions are based. At any time when there is neither an  
38    unfunded obligation nor a normal cost deficit, the percentage shall  
39    be reduced to zero. The funds transferred pursuant to this  
40    subdivision shall first be applied to eliminating on or before June

1 30, 2027, the unfunded actuarial liability of the fund identified in  
2 the actuarial valuation as of June 30, 1997.

3 (c) For the purposes of this section, the term “normal cost  
4 deficit” means the difference between the normal cost rate as  
5 determined in the actuarial valuation required by Section 22311  
6 and the total of the member contribution rate required under Section  
7 22901 and the employer contribution rate required under Section  
8 22950, and shall exclude (1) the portion for unused sick leave  
9 service credit granted pursuant to Section 22717, and (2) the cost  
10 of benefit increases that occur after July 1, 1990. The contribution  
11 rates prescribed in Section 22901 and Section 22950 on July 1,  
12 1990, shall be utilized to make the calculations. The normal cost  
13 deficit shall then be multiplied by the total of the creditable  
14 compensation upon which member contributions under this part  
15 are based to determine the dollar amount of the normal cost deficit  
16 for the year.

17 (d) Pursuant to Section 22001 and case law, members are  
18 entitled to a financially sound retirement system. It is the intent of  
19 the Legislature that this section shall provide the retirement fund  
20 stable and full funding over the long term.

21 (e) This section continues in effect but in a somewhat different  
22 form, fully performs, and does not in any way unreasonably impair,  
23 the contractual obligations determined by the court in California  
24 Teachers’ Association v. Cory, 155 Cal.App.3d 494.

25 (f) Subdivision (b) shall not be construed to be applicable to  
26 any unfunded liability resulting from any benefit increase or change  
27 in contribution rate under this part that occurs after July 1, 1990.

28 (g) The provisions of this section shall be construed and  
29 implemented to be in conformity with the judicial intent expressed  
30 by the court in California Teachers’ Association v. Cory, 155  
31 Cal.App.3d 494.

32 (h) This section shall become operative on July 1, 2003, if the  
33 revenue limit cost-of-living adjustment computed by the  
34 Superintendent of Public Instruction for the 2001–02 fiscal year  
35 is equal to or greater than 3.5 percent. Otherwise this section shall  
36 become operative on July 1, 2004.

37 *SEC. 7. Section 22955.5 of the Education Code is amended to*  
38 *read:*

39 22955.5. (a) For purposes of Sections 22954 and 22955,  
40 “creditable compensation” shall include only creditable

1 compensation for which member contributions are credited under  
2 the Defined Benefit Program.

3 (b) On or after October 1 and on or before October 25 of each  
4 year, beginning in 2008, the board shall calculate the total amount  
5 of creditable compensation for the fiscal year that ended on the  
6 immediately preceding June 30, *which was earned either during*  
7 *that fiscal year or the immediately preceding fiscal year*. For the  
8 purpose of informing the Department of Finance and the  
9 Legislature of the amount of the state's appropriations pursuant  
10 to Sections 22954 and 22955 in the next fiscal year, the system  
11 shall immediately submit a report that includes this calculation to  
12 the Director of Finance, the Chairperson of the Joint Legislative  
13 Budget Committee, and the Legislative Analyst.

14 (c) After submission of the report described in subdivision (b),  
15 on or before the April 15 after submission of the report described  
16 in subdivision (b), the system shall notify the Director of Finance,  
17 the Chairperson of the Joint Legislative Budget Committee, and  
18 the Legislative Analyst of any revisions in its calculation of the  
19 total amount of creditable compensation for the fiscal year that  
20 ended on the immediately preceding June 30.

21 (d) The last revised calculation submitted pursuant to subdivision  
22 (c) on or before April 15 of each year or, if no such revised  
23 calculation is submitted, the calculation in the report submitted  
24 pursuant to subdivision (b) shall be the calculation of creditable  
25 compensation upon which the state's appropriations pursuant to  
26 Sections 22954 and 22955 will be based in the next fiscal year.  
27 On or after April 15 and on or before May 1 of each year, the  
28 system shall submit to the Controller a copy of this calculation,  
29 along with a requested schedule of transfers to be made pursuant  
30 to the appropriations in Sections 22954 and 22955 in the next fiscal  
31 year beginning on the next July 1. The system shall also provide  
32 a copy of this schedule to the Director of Finance and the  
33 Legislative Analyst.

34 ~~SEC. 5.~~

35 SEC. 8. Section 23003 of the Education Code is amended to  
36 read:

37 23003. (a) If a county superintendent of schools or employing  
38 agency or school district or community college district that reports  
39 directly to the system fails to make payment of contributions as

1 provided in Section 23002, the board shall, in accordance with  
2 regulations, assess penalties.

3 (b) The board shall, in accordance with regulations, charge  
4 regular interest on any delinquent contributions under this part.

5 ~~SEC. 6.~~

6 *SEC. 9.* Section 23006 of the Education Code is amended to  
7 read:

8 23006. (a) If a county superintendent of schools or employing  
9 agency or school district or community college district that reports  
10 directly to the system, submits monthly reports, as specified by  
11 Section 23004, late, as defined in Section 23005, or in unacceptable  
12 form, the board shall, in accordance with regulations, assess  
13 penalties.

14 (b) The board shall, in accordance with regulations, assess  
15 penalties, based on the sum of the employer and employee  
16 contributions required under this part by the report, for late or  
17 unacceptable submission of reports, at a rate of interest equal to  
18 the regular interest rate or a fee of five hundred dollars (\$500),  
19 whichever is greater.

20 ~~SEC. 7.~~

21 *SEC. 10.* Section 23006.5 is added to the Education Code, to  
22 read:

23 23006.5. (a) If a county superintendent of schools, or an  
24 employing agency, school district, or community college district  
25 that reports directly to the system, includes creditable compensation  
26 earned during ~~prior fiscal years~~ *any prior fiscal year, except for*  
27 *the immediately preceding fiscal year*, in the monthly reports  
28 specified in Section 23004, the board shall, in accordance with  
29 regulations, assess penalties. The penalties shall be equal to the  
30 product of the creditable compensation earned during *relevant*  
31 prior fiscal years and the contribution rate specified in Sections  
32 22954 and 22955, plus the product of the creditable compensation  
33 earned during *relevant* prior fiscal years and the regular interest  
34 rate for the period from July 1 of the fiscal year following the year  
35 in which the creditable compensation is earned and the time the  
36 penalty is received in full by the system.

37 (b) *If a county superintendent of schools, or an employing*  
38 *agency, school district, or community college district that reports*  
39 *directly to the system, includes creditable compensation earned*  
40 *during the immediately preceding fiscal year in the monthly reports*

1 *specified in Section 23004, that creditable compensation shall be*  
2 *subject to Sections 22954, 22955, and 22955.5.*

3 ~~SEC. 8.~~

4 *SEC. 11.* Section 23008 of the Education Code is amended to  
5 read:

6 23008. (a) If more or less than the required contributions  
7 specified in this part and Section 44987 are paid to the system  
8 based on any payment of creditable compensation to a member,  
9 proper adjustments shall be made on a monthly report, by the  
10 county superintendent, district superintendent, chancellor of a  
11 community college district, or other employing agency who  
12 submitted the report, within 60 days after discovery or notification  
13 by the system and any refunds shall be made to the member within  
14 the same time period by the employing agency.

15 (b) The board shall, in accordance with regulations, assess  
16 penalties for late or improper adjustments, as specified in Sections  
17 23006 and 23006.5.

18 (c) If a required report contains erroneous information and the  
19 system, acting in good faith, disburses funds from the ~~Teacher's~~  
20 *Teachers' Retirement Fund* based on that information, the county  
21 superintendent, district superintendent, chancellor of a community  
22 college district, or other employing agency who submitted the  
23 report shall reimburse the retirement fund in full for the amount  
24 of the erroneous disbursement. Reimbursement shall be made  
25 immediately upon notification by the system.

26 *SEC. 12.* Section 23010 is added to the Education Code, to  
27 read:

28 23010. *A person or entity that reports directly to the system*  
29 *that is assessed penalties or interest pursuant to Section 23003,*  
30 *23006, 23006.5, or 23008 may appeal the assessed penalties or*  
31 *interest subject to the appeals process established pursuant to*  
32 *Section 22219.*

33 ~~SEC. 9.~~

34 *SEC. 13.* Section 26301 of the Education Code is amended to  
35 read:

36 26301. (a) Employers shall report contributions paid on behalf  
37 of each participant in each pay period, along with all other  
38 information required by the system no later than 10 working days  
39 following the last day of the pay period in which the salary was  
40 earned, and the report shall be delinquent immediately thereafter.

1 That report shall be submitted electronically in an encrypted format  
2 provided by the system that ensures the security of the transmitted  
3 participant data.

4 (b) The board shall, in accordance with regulations, assess  
5 penalties against the employer for a report submitted late or in an  
6 unacceptable form. The penalties shall be based upon the sum of  
7 the employee and employer contributions required to be reported  
8 under this part at a rate of interest equal to the regular interest rate,  
9 accruing on the balance for the period between the time the report  
10 was due and the time an acceptable report is actually received by  
11 the system, or a fee of five hundred dollars (\$500), whichever is  
12 greater.

13 ~~SEC. 10.~~

14 *SEC. 14.* Section 26303 of the Education Code is amended to  
15 read:

16 26303. (a) Employers shall transmit to the plan the employee  
17 contributions and employer contributions with respect to the Cash  
18 Balance Benefit Program for salary paid to each participant during  
19 the pay period no later than 10 working days following the last  
20 day of the pay period in which the salary was earned.

21 (b) Payments shall be delinquent on the 11th working day  
22 thereafter, and interest shall begin to accrue at the regular interest  
23 rate from that day until payment for the contributions and interest  
24 is received in full by the system. The board shall collect interest  
25 for late payment from the employer under this subdivision.

26 *SEC. 15.* Section 26303.5 is added to the Education Code, to  
27 read:

28 26303.5. *A person or entity that reports directly to the system*  
29 *that is assessed penalties or interest pursuant to Section 26301 or*  
30 *26303 may appeal the assessed penalties or interest using the*  
31 *appeals process established pursuant to Section 22219.*